

IN THE  
SUPREME COURT  
OF THE  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

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**CHEN'S CORPORATION,**  
Plaintiff-Appellee,

v.

**AMBROSE R. FRANK, b/k/a FRANK R. HAMBROS,**  
Defendant-Appellant.

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**SUPREME COURT NO. SC-06-0029-GA**  
Small Claims Case No. 06-0261

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**DENIAL OF PETITION FOR REHEARING**

**Cite as: 2008 MP 9**

Decided April 15, 2008

BEFORE: MIGUEL S. DEMAPAN, Chief Justice; ALEXANDRO C. CASTRO, Associate Justice;  
JESUS C. BORJA, Justice Pro Tem

DEMAPAN, C.J.:

¶ 1 Petitioner Frank R. Hambros requests a rehearing, arguing that the Commonwealth Constitution assigns this Court appellate jurisdiction over appeals from a final post-judgment order issued in a small claims matter, and that the scope of jurisdiction assigned to the trial court excludes appellate jurisdiction. We hold that our opinion properly determined that small claims cases are to be appealed to the trial court, and, therefore, DENY the petition for rehearing.

## I

¶ 2 The facts of this case are contained in *Chen's Corporation v. Hambros*, 2007 MP 4 ¶¶ 2-3.

## II

¶ 3 A petition for rehearing may be filed when this Court ignores or incorrectly construes legal issues or factual matters while reaching its decision. *In re Estate of Deleon Guerrero*, 1 N.M.I. 324, 326 (1990). NMI R. App. P. 40 requires that a “petition shall state with particularity the points of law or fact which in the opinion of the petitioner the Court has overlooked or misapprehended.”

¶ 4 Petitioner alleges that this Court erred in holding that the trial court has appellate jurisdiction over appeals from a final post-judgment order issued in a small claims matter. The Commonwealth Constitution assigns general appellate jurisdiction solely to the Supreme Court. (“The Commonwealth supreme court shall hear appeals from final judgments and orders of the Commonwealth superior court.” NMI Const. art. IV, § 3.). However, Rule 83 of the Commonwealth Rules of Civil Procedure establishes an inferior small claims court within the trial court. The Rules of Civil Procedure and the Rules of Evidence are different in small claims matters, so while a trial court judge will hear small claims cases, the judge will sit in a different capacity than in regular trial court cases. Therefore, Rule 83(i), which governs appeals, does not subject the small claims court to the usual appellate process of the Supreme Court.

¶ 5 The public policy rationale for small claims court differentiates it from the rest of the judiciary. The Commonwealth Rules of Civil Procedure state that the rationale behind the small claims procedure is “to enable small claims to be justly decided and fully disposed of with less formality, paperwork, and expenditure of time than is required by the ordinary procedure for larger claims.” NMI R. Civ. P. 83(b). To require claimants to file an appeal with the Supreme Court for these matters would require a substantial record, far more than what is required for small claims matters. A small claims court record consists solely of a “small claims docket card for each case.

The entries on the docket card shall ordinarily constitute the entire record and no further information need be recorded or kept.” *Id.* Furthermore, the trial court will determine if the appeal for a new trial is “frivolous or for the purpose of delay,” a finding that is both inappropriate and onerous for the Supreme Court to determine. NMI R. Civ. P. 83(i).

¶ 6 Petitioner also asserts that this Court reads Rule 83(i) incorrectly by interpreting “may appeal the judgment” to mean that the only avenue for appellate relief is through the trial court. Petitioner reads “may” as leaving open another avenue for appeal, namely, this Court. We properly interpreted the rule in our opinion. The word “may” modifies the word “appeal,” in that it gives parties the option to appeal. Rule 83(i) then lists the method of appeal, specifically a new trial with the trial court. The word “may” does not give appellant options as to where to appeal; it only details the proper method if the appellant chooses to appeal. Although this Court has general appellate jurisdiction, the Rules of Civil Procedure allot this exception for small claims appeals. Petitioner’s reliance on the discretionary “may” of *Bank of Hawaii v. Sablan*, 1997 MP 4, is unfounded, as that decision relied on a previous incarnation of the statute with different language. Commonwealth case law indicates that small claims actions are not typically appealed to the Supreme Court, unless under extraordinary circumstances.

¶ 7 The record in this case is not complete, and as such, we cannot hear the appeal from the post-judgment order. The trial court is the appropriate venue to obtain new evidence and facts necessary to resolve this case. Petitioner should have appealed the case to the trial court in order to preserve the record for appeal. The Commonwealth Rules of Civil Procedure are binding in this jurisdiction, and clearly indicate that petitioner should have appealed to the trial court.

### III

¶ 8 For the foregoing reasons, we conclude that our opinion correctly held that the trial court has appellate jurisdiction over this appeal. This Court did not ignore or incorrectly construe any legal issues or factual matters as alleged by the petitioner. Accordingly, the petition for rehearing is DENIED.

Concurring:  
Castro, J., Borja, J.P.T.